

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	
	:	
ABRAHAM RIOS,	:	
a/k/a "Junior"	:	
a/k/a "June"	:	NO. 96-0540-06

MEMORANDUM AND ORDER

HUTTON, J.

June 20, 1997

Presently before the Court is Defendant Abraham Rios' Motion for Disclosure of Government Informers' Identities, and the Government's Response thereto.

I. BACKGROUND

The defendant states that the disclosure of the Government's informants is relevant and would be helpful in the preparation of his defense, as well as being essential to a fair trial. The government states that disclosure is not warranted because the defendant has failed to meet its burden that disclosure is needed.

II. DISCUSSION

In Roviaro v. United States, 353 U.S. 53 (1957), the United States Supreme Court stated that the purpose of the Government's privilege to withhold from disclosure the identity of informants "is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes

the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials and, by preserving their anonymity, encourages them to perform that obligation." Id. at 59.

This privilege, however, does have limitations. "Where the disclosure of an informer's identity, or of the contents of his communication, is relevant and helpful to the defense of an accused, or is essential to a fair determination of a cause, the privilege must give way." Id. at 60-61. Nevertheless, the Supreme Court held that no fixed rule with respect to disclosure is justifiable. The Court expressed that:

[t]he problem is one that calls for balancing the public interest in protecting the flow of information against the individual's right to prepare his defense. Whether a proper balance renders nondisclosure erroneous must depend on the particular circumstances of each case, taking into consideration the crime charged, the possible defenses, the possible significance of the informer's testimony, and other relevant factors.

Id. at 62; accord Pickel v. United States, 746 F.2d 176, 181 (3d Cir. 1984); United States v. Bazzano, 712 F.2d 826, 839 (3d Cir. 1983)(en banc), cert. denied, 465 U.S. 1078 (1984); United States v. Jiles, 658 F.2d 194, 196 (3d Cir. 1981), cert. denied, 455 U.S. 923 (1982).

The burden rests on the defendant to show that disclosure of the identity of informants is needed. Pickel, 746 F.2d at 181; Jiles, 658 F.2d at 197. "Mere speculation as to the usefulness of the informant's testimony to the defendant is insufficient to

justify disclosure of his identity." Bazzano, 712 F.2d at 839 (quoting United States v. Estrella, 567 F.2d 1151, 1153 (1st Cir. 1977)).

In the instant case, the defendant merely makes a conclusory statement that "the disclosure of the Government's informer or informers in this matter would most definitely be relevant and helpful to the preparation of his defense, as well as being essential to a fair trial." This Court finds that this statement is "mere speculation" and is insufficient to justify disclosure of an informant's identity. The defendant fails to point to the particular circumstances of his case that would render disclosure essential to a fair trial. Accordingly, the defendant's Motion for Disclosure of Government Informers' Identities is denied.

An appropriate Order follows.

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O R D E R

AND NOW, this 20th day of June, 1997, upon consideration of Defendant Abraham Rios' Motion for Disclosure of Government Informers' Identities (Docket No. 80), and the Government's Response thereto, IT IS HEREBY ORDERED that the Defendant's Motion is **DENIED**.

BY THE COURT:

HERBERT J. HUTTON, J.